

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
MONTGOMERY DIVISION**

BETTY ANN BURKS, et al.,

Plaintiffs,

v.

**EQUITY GROUP EUFAULA
DIVISION, LLC,**

Defendant.

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**CIVIL ACTION NO.
2:06-cv-01081-MEF-DRB**

**PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFF'S MOTION FOR AN ORDER PERMITTING
COURT SUPERVISED NOTICE TO EMPLOYEES
OF THEIR OPT-IN RIGHTS**

Plaintiff, BETTY ANN BURKS, et al., ("Plaintiffs"), request the entry of an Order permitting under court supervision, notice to all Defendant EQUITY GROUP EUFAULA DIVISION, LLC's ("Equity Group" or "Defendant") Baker Hill Plant hourly 1st and 2nd processing production employees. In support of these individuals' opt-in rights, Plaintiffs state as follows:

1. The Defendant does not oppose Plaintiffs' request for notice.
2. The parties have conferred and resolved their differences with regard to notice.
3. The parties have agreed on the attached notice letter. *See Exhibit A.*

4. The parties have agreed on the attached opt-in consent. *See* Exhibit B.

5. The parties have agreed:

a. Upon the Court's approval of the notice, within 30 days after the entering of the notice order, Defendants will work with Plaintiffs to develop a usable workable list of names and contact information for members of the class of potential plaintiffs and said information will be provided to Plaintiffs before the expiration of the 30 day period.

c. Plaintiffs then will distribute the notice to potential plaintiffs.

d. The parties propose a period of one hundred and twenty (120) days, starting fifteen (15) days after Plaintiff's receipt of a usable list of class member names and contact information, to allow potential plaintiffs to opt in to the action. In order to address clerical errors and other problems that may occur when putative plaintiffs submit consents in the final days of the opt-in period, Plaintiffs will have an additional ten (10) days after the opt-in period has closed to file consents received during the 120 day period.

Accordingly, Plaintiffs respectfully request that notice be permitted and supervised and that notice be sent to all current and former 1st and 2nd processing employees as described above.

Dated: June 13, 2007

Respectfully submitted,

THE COCHRAN FIRM, P.C.

/s/ Robert J. Camp
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505 North 20th Street, Suite 825
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(205) 930-6900-Telephone
(205) 930-6910- Facsimile

-and-

Samuel A. Cherry, Jr.
Lance H. Swanner
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Dothan, AL 36302
(334) 793-1555 (Phone)
(334) 793-8280 (Fax)

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2007, I electronically filed the above Motion with the Clerk of the District Court using CM/ECF System, which sent notification of such filing to:

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EXHIBIT "A"

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA - NORTHERN DIVISION**

BETTY ANN BURKS, et al.,

Plaintiffs,

v.

EQUITY GROUP EUFAULA
DIVISION LLC,

Defendant.

No. 2:06-CV-1081-MEF

NOTICE OF PENDING FAIR LABOR STANDARDS ACT LAWSUIT.

*This is a Court-Authorized Notice and is not a Solicitation from a Lawyer.
The Court Has Made No Finding as to the Merits of the Case at this Time*

IF YOU ARE OR WERE EMPLOYED, SINCE MARCH 12, 2004, AS AN HOURLY PAID 1ST OR 2ND PROCESSING PRODUCTION EMPLOYEE AT EQUITY GROUP EUFAULA DIVISION, LLC, IN BAKER HILL ALABAMA, AND PAID ACCORDING TO "LINE TIME", "MASTER TIME", or your individual time clock punches were not the basis for calculating your hours worked, A COLLECTIVE ACTION LAWSUIT MAY AFFECT YOUR RIGHTS.

BETTY ANN BURKS, et al., ("Plaintiffs"), current and former hourly paid 1st or 2nd processing production employees who were paid pursuant to "line time," "master key time," or whose individual time clock punches were not the basis for hours worked while employed with EQUITY GROUP EUFAULA DIVISION, LLC ("EQUITY") have sued EQUITY in federal court alleging that EQUITY improperly failed to pay them for all hours worked and overtime hours worked in excess of forty (40) during their employment with EQUITY. As a result of these alleged practices, Plaintiffs maintain that they were unlawfully deprived of full and proper regular time and overtime compensation due to them under the FLSA. The case name is, *Betty Ann Burks, et al., v. Equity Group Eufaula Division, LLC*, CIVIL ACTION NUMBER: 2:06-cv-01081-MEF-DRB.

Plaintiffs claim that they were paid on the basis of "line time", "master key time", or that their individual time clock punches were not the basis for hours worked and as a result they were not fully paid regular time or overtime for pre-production and post-production activities as well as activities during their shift, including putting on and taking off protective and sanitary equipment/clothing at the beginning and end of the work day, putting on and taking off protective and sanitary equipment/clothing during the shift at breaks, related washing/cleaning time at the beginning and end of the shift and during breaks, waiting time and time spent walking to and from the line at the beginning and end of the day as well as at breaks, and that unpaid breaks are compensable, due to putting on equipment/clothing, taking off equipment/clothing, walk time, and wash time that occurs while employees are on break.

The Court has permitted Plaintiffs to send Notice to all similarly situated current and former hourly paid 1st and 2nd processing production employees, paid under a "line

time" or "master time" system or whose individual time clock punches were not the basis for hours worked, of EQUITY at any time within the past 3 years, so that they may be permitted to consider whether to "opt-in" to, or join, this lawsuit to assert their similar legal rights.

EQUITY contests the Plaintiffs' allegations in this lawsuit. EQUITY claims that it has acted in accordance with all legal and contractual requirements.

The Court has not yet decided whether EQUITY has done anything wrong or whether this case will proceed to trial. There is no money available now and no guarantees that there will be. However, you have a choice to assert your legal rights in this case.

YOUR LEGAL RIGHTS & OPTIONS	
Do Nothing	Do Nothing, Lose Nothing (except resulting from the passage of time). By doing nothing, you retain your legal rights to bring a separate suit against EQUITY (within the applicable statute of limitations period) for allegedly unpaid regular and overtime compensation, but will not share in any recovery in this case.
Ask to Be Included	Complete Opt-in Consent Form. By "opting in" you gain the possibility of receiving money or benefits that may result from a trial or settlement, but you give up your right to separately sue EQUITY for the same legal claims brought in this lawsuit. If you choose to "opt-in" to this lawsuit, you may be required to participate in depositions and/or provide written responses in support of your claims.

Your options are included in this Notice to Opt-in. If you wish to join in the lawsuit, you must complete the Opt-in Consent Form, place it in the enclosed self addressed stamped envelope and forward it to the attorneys designated in the Notice on or before _____, 2007. If you have any questions or concerns, please contact:

ROBERT J. CAMP, Esquire
THE COCHRAN FIRM
PO BOX 927
DOTHAN, AL 36302
Tel: 1-800-THE-FIRM
Fax: 334-793-8280
Counsel for Plaintiffs

The law prohibits anyone from discriminating or retaliating against you for taking part in this case. If you believe that you have been penalized, disciplined, punished, threatened, intimidated, or discriminated against in any way as a result of your receiving this notification, your considering whether to complete and submit the Notice of Consent, or having submitted the Notice of Consent, you may contact THE COCHRAN FIRM at the number provided above.

EXHIBIT "B"

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA - NORTHERN DIVISION**

BETTY ANN BURKS, et al.,

Plaintiffs,

v.

EQUITY GROUP EUFAULA
DIVISION LLC,

Defendant.

No. 2:06-CV-1081-MEF

CONSENT TO JOIN SUIT AS PARTY PLAINTIFF.

TO: CLERK OF THE COURT AND COUNSEL OF RECORD

_____ states the following:
[Print Name]

1. I am over 18 years of age and competent to give the following consent in this matter.
2. I am currently, or was formerly, employed by _____
[Employer]
at the facility located in _____. I worked at this
[City/State]
location from _____ to _____.
[Date] [Date, or if still working write "present"]
3. I understand that this suit is being brought to recover compensation for pre and post shift activities from my employer. I also understand that the lawsuit may seek recovery for unpaid time during my shift. I understand that the suit is brought pursuant to both federal law and applicable state statutes, if any.
4. I believe I have not been paid for all compensable time which I have worked, including overtime.
5. I hereby consent and agree to be a plaintiff in this lawsuit and to be bound by any decision in this lawsuit or by any settlement of this case.

I understand that this suit may be brought as a collective action covering employees of Equity. If brought as a collective action under either federal or state law, I consent to join as a plaintiff in such suit.

I swear or affirm that the foregoing Statements are true to the best of my

knowledge.

DATED the _____ day of _____, 2007

[PRINT NAME]

[SIGN NAME]

[PRINT STREET ADDRESS]

[PRINT CITY, STATE, ZIP CODE]

[PRINT CELL PHONE NUMBER]

[PRINT HOME PHONE NUMBER]